

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JUSTIN EDMISTEN,

Case No. 3:22-cv-00118-RCJ-CLB

Petitioner,

ORDER

v.

WILLIAM L. GITTERE, et al.,

Respondents.

Pro se Petitioner Justin Edmisten filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. (ECF No. 7.) In its order reviewing Edmisten’s petition pursuant to Habeas Rule 4, this Court instructed Edmisten to notify the court if he was aware of any claim not included in his petition, “perhaps by means of a motion to amend his petition to add the claim.” (ECF No. 6.) Edmisten has filed such a motion, requesting that this Court allow his “pleadings to be supplemented.” (ECF No. 10 at 2.) Specifically, Edmisten “seeks to add to the original pleading some of the grounds he has already incorporated in [Grounds 1 and 2, but] he is not trying to bring an actual additional . . . ground.” (*Id.*) Respondents opposed Edmisten’s motion because he “did not attach or include any information regarding exactly what claim he intends to supplement, or what information he is seeking to amend.” (ECF No. 11 at 1.) However, Respondents also noted that they “no not necessarily oppose Edmisten amending his current petition but . . . need more information on what Edmisten intends to amend.” (*Id.* at 2 n.1.)

This Court disagrees that Edmisten did not include *any* information regarding what he intends to supplement, as he did file a document entitled “supplemental pleadings.” (ECF No. 10-1.) Nonetheless, this Court finds that Edmisten needs to file an amended petition that contains all his claims in one document. Edmisten’s amended petition must be drafted on the form provided


1 by the court. He should write “Amended” above “Petition” on page 1, and he should place the case
2 number, 3:22-cv-00118-RCJ-CLB, in the designated space. Edmisten’s amended petition must
3 challenge only one state-court judgment of conviction, and it must make clear which judgment of
4 conviction that is. Edmisten must number, consecutively, the claims in his amended petition, such
5 that each numbered claim sets forth one discrete, understandable, ground for relief, and states the
6 facts supporting that ground for relief. Additionally, Local Rule 15-1 cautions that the amended
7 petition must be complete in itself without reference to previously filed papers. As such, Edmisten
8 must include all claims and allegations that he intends to assert; he cannot merely refer back to his
9 original filing or re-attach pages. Any claims or allegations that are left out of the amended petition
10 or that are not realleged will not be considered.

11 IT IS THEREFORE ORDERED that Edmisten’s motion to amend (ECF No. 10) is
12 GRANTED. Edmisten will have forty-five (45) days from the date of entry of this order to file an
13 amended petition for a writ of habeas corpus that contains all of his claims for relief. Failure to file
14 an amended petition in accordance with this order could result in this action being dismissed
15 without prejudice and without further prior notice. Neither the foregoing deadline nor any
16 extension thereof signifies or will signify any implied finding as to the expiration of the federal
17 limitation period and/or of a basis for tolling during the time period established. Edmisten remains
18 responsible for calculating the running of the federal limitation period and timely asserting claims,
19 without regard to any deadlines established or extensions granted herein. That is, by setting a
20 deadline to amend the petition and/or by granting any extension thereof, the Court makes no
21 finding or representation that the petition, any amendments thereto, and/or any claims contained
22 therein are not subject to dismissal as untimely. *See Sossa v. Diaz*, 729 F.3d 1225, 1235 (9th Cir.
23 2013).

1 IT IS FURTHER ORDERED that the Clerk of the Court shall send Edmisten a blank form
2 for a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

3 IT IS FURTHER ORDERED that Respondents need not file an answer or other response
4 to the petition (ECF No. 7) unless later directed by this Court.

5 Dated: June 14, 2022.

6 
7 ROBERT C. JONES
8 UNITED STATES DISTRICT COURT
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23